

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 85364-001

v

**Care Choices HMO / Priority Health
Respondent**

**Issued and entered
this 13th day of November 2007
by Ken Ross
Acting Commissioner**

ORDER

**I
PROCEDURAL BACKGROUND**

On September 25, 2007, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On October 2, 2007, after an assessment of the material submitted, the Commissioner accepted the request.

The Petitioner had health care coverage from Care Choices, a health maintenance organization (HMO). On March 27, 2007, Care Choices surrendered its certificate of authority and is no longer licensed to conduct business as an HMO. Priority Health acquired Care Choices' assets and liabilities and now underwrites Care Choices' coverage. Priority Health handled the Petitioner's grievance and is the Respondent in this external review.

The Commissioner assigned the matter to an independent review organization (IRO) for a review of the medical issues. The IRO sent its recommendation to the Office of Financial and Insurance Services on October 10, 2007.

II FACTUAL BACKGROUND

On August 14, 2007, the Petitioner underwent a capsule endoscopy (CE) and Priority Health denied coverage for it.

The Petitioner completed Priority Health's internal grievance process and received its final adverse determination letter dated September 26, 2007.

III ISSUE

Did Priority Health properly deny coverage for the Petitioner's hospital charges for the CE performed on August 14, 2007?

IV ANALYSIS

Petitioner's Argument

The Petitioner had complaints of intestinal malabsorption, chronic diarrhea, and weight loss, and abnormal findings on his gastrointestinal tract. He says that since Thanksgiving 2006, he has lost 30 pounds. He also had all kinds of tests (PET scan, MRIs, ultrasounds, colonoscopies, CT scans, and biopsies) to figure out why he experienced these symptoms and to get a definitive diagnosis.

The Petitioner's gastroenterologist, Dr. XXXXX, advised him that the next diagnostic test that should be performed was a CE. In a note to Dr. XXXXX dated June 25, 2007, Dr. XXXXX stated in part:

PROGRESS NOTE

I had the opportunity to see [the Petitioner] today for follow up. He is a 70-year old gentleman, who recently had enteroscopy and I did biopsy from the proximal small bowel, which was negative. He had an MRI of the abdomen that showed multiple lesions in the liver. Some of them were heterogeneous. Malignancy cannot be ruled out. Diarrhea wise he is somewhat better than before at least he is not losing any more weight.

* * *

Impression & Plan:

Chronic diarrhea malabsorption. History of lymphoma. I would consider capsular endoscopy to rule out any involvement of the small bowel. I will inform you about the results.

The Petitioner believes the test should be covered since it was medically necessary according to his gastrointestinal specialist.

Priority Health's Argument

In its final adverse determination denying retro-authorization for the CE, Priority Health said: "No documentation has been submitted to show that the medical criteria for this procedure has been met. Capsule endoscopy is not covered as a general screening tool."

Priority Health had already denied pre-authorization for the CE before the retro-authorization was submitted. In a letter dated July 9, 2007, to the Petitioner's primary care physician Dr. XXXXX, Priority Health denied pre-authorization for the CE as not medically necessary. That was followed by a letter dated August 3, 2007, to Dr. XXXXX, which again denied pre-authorization for the service.

To explain its position, Priority Health referred to this provision in the subscriber certificate, the contract that defines the Petitioner's health care benefits:

Section 5.2 Covered Services

Requirements for Covered Services

Services covered by HMO must be:

- (1) Provided by the PCP or arranged by the PCP or Participating Specialist and approved in advance by HMO, and
- (2) Medically necessary, and
- (3) A covered benefit, and
- (4) Not specifically excluded from coverage, and
- (5) Provided by a HMO Participating Provider, except in emergencies.

* * *

Priority Health further says that the Petitioner's CE is specifically excluded from coverage under Care Choices' "Capsule Endoscopy" medical policy (DIAG-12) which says:

Coverage for capsule endoscopy is provided to investigate suspected small intestinal bleeding in patients with objective evidence of recurrent, obscure gastrointestinal bleeding (e.g., iron-deficiency anemia, positive fecal occult blood test, or visible bleeding) who have had upper and lower gastrointestinal endoscopies that have failed to identify a bleeding source and where the amount of blood loss or suspected pathology is such that "watchful waiting" is clinically inadvisable.

Determinations are made on an individual consideration basis and require prior Plan approval by the Plan Medical director. Capsule endoscopy must be provided by a participating provider.

Limitations and Exclusions

- Capsule endoscopy is not covered as a general screening tool.

* * *
- Relative contraindications include:

* * *

 - Large and numerous diverticula

Rationale

Capsule endoscopy, though having a high diagnostic yield, has a positive influence on clinical outcome in only a relatively small proportion of patients.

The medical policy also has this discussion:

Background

Wireless capsule endoscopy (WCE) or capsule endoscopy is noninvasive procedure in which a swallowable, multivitamin-sized capsule containing a miniaturized video camera, light, transmitter, and batteries transmits a video picture of the mucosal lining of the small bowel as it moves through the gastrointestinal (GI) tract. This procedure was originally intended for use in patients with suspected small-bowel disease who have chronic, unexplained or uncontrollable GI blood loss or anemia, GI symptoms such as abdominal pain, diarrhea, etc., and whose diagnoses remain unknown following standard radiology, endoscopies, and other tests.

* * *

Assessment of the diagnostic accuracy of WCE and the impact of the test results on clinical decision-making, treatment planning, and long-term health outcomes require systematic evaluation in large study populations.

Priority Health, in its October 2, 2007, position paper to Office of Financial and Insurance Services, explained that the Petitioner does not meet its medical policy criteria for coverage of a CE because the CE was performed for the diagnosis of chronic diarrhea malabsorption and not for gastrointestinal bleeding, which is a requirement for coverage. Priority Health also says that a CE is contraindicated in persons with large or numerous diverticula and notes that the Petitioner has severe diverticulosis.

Priority Health believes its denial was appropriate because a CE for a person with chronic diarrhea malabsorption is unproven; and not medically necessary.

Commissioner's Review

The sole issue to be decided by the Commissioner is whether Priority Health's denial of the Petitioner's CE was correct because it was not medically necessary.

To answer that question, the Commissioner assigned the case to an IRO for analysis. The IRO reviewer is board certified in internal medicine and gastroenterology, holds an academic appointment, and is in active practice. The IRO reviewer concluded that the CE was not medically necessary.

The IRO reviewer indicated that the Petitioner's colonoscopy and esophagogastroduodenoscopy were normal and that a biopsy of his liver and enlarged lymph nodes was not obtained before the CE to rule out recurrent hematologic malignancy as a cause of his symptoms. Further, there was no evidence that a barium contrast study of the small bowel was performed before the CE.

The IRO reviewer pointed out that an MRI revealed multiple heterogeneous lesions in the liver and a CT scan revealed "pathologic intra-abdominal lymphadenopathy and a left

pleural effusion.” These findings were of concern to the IRO reviewer because of the Petitioner’s history of hematologic malignancy. The CE itself was unremarkable.

After reviewing the records, the IRO reviewer concluded that the CE was not medically necessary for the diagnosis of the Petitioner’s condition.

The Commissioner is not required in all instances to accept the IRO’s recommendation. However, the IRO recommendation is afforded deference by the Commissioner because it is based on extensive experience, expertise, and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case and finds that Priority Health’ denial should be upheld because the CE was not medically necessary and therefore not covered under the terms of the Petitioner’s certificate.

V ORDER

Respondent Priority Health’s September 11, 2007, final adverse determination is upheld. Priority Health is not responsible for coverage of the capsule endoscopy under the terms of the certificate.

Priority Health is responsible for processing all Care Choices claims and any appeals under the Patient’s Right to Independent Review Act. These changes do not affect the Commissioner’s decision and Order in this external review. However, any ongoing correspondence or other actions intended for Care Choices should be directed to Priority Health at this address:

Priority Health
1231 East Beltline SE
Grand Rapids, MI 49525-4501

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner

of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220,
Lansing, MI 48909-7720.